

## Senate Bill No. 450

### CHAPTER 23

An act to amend Section 207 of the Penal Code, relating to kidnapping.

[Approved by Governor June 25, 2003. Filed with  
Secretary of State June 26, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 450, Poochigian. Kidnapping.

Existing law provides that every person who forcibly, or by any other means of instilling fear, steals, takes, holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping. Existing law also provides for other definitions of kidnapping, some requiring that the victim be taken or carried away by force or forcibly. As regards an unresisting infant or child, the California Supreme Court, in the case of *In re Michelle D.* (2002) 29 Cal.4th 600, has defined the element of force for purposes of kidnapping as that amount of force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.

This bill would codify that holding, and would state that it does not constitute change in existing law.

*The people of the State of California do enact as follows:*

SECTION 1. Section 207 of the Penal Code is amended to read:

207. (a) Every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.

(b) Every person, who for the purpose of committing any act defined in Section 288, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14 years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.

(c) Every person who forcibly, or by any other means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises,

misrepresentations, or the like, any person to go out of this state, or to be taken or removed therefrom, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, or to the use of another, without the free will and consent of that persuaded person, is guilty of kidnapping.

(d) Every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where that act is committed, and brings, sends, or conveys that person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnapping.

(e) For purposes of those types of kidnapping requiring force, the amount of force required to kidnap an unresisting infant or child is the amount of physical force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.

(f) Subdivisions (a) to (d), inclusive, do not apply to any of the following:

(1) To any person who steals, takes, entices away, detains, conceals, or harbors any child under the age of 14 years, if that act is taken to protect the child from danger of imminent harm.

(2) To any person acting under Section 834 or 837.

SEC. 2. The amendment to Section 207 of the Penal Code made by this act codifies the holding in *In re Michelle D.* (2002) 29 Cal.4th 600, and does not constitute a change in existing law.

